

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Case No. 09-14397-ajg

ONYEKACHI ANOSIKE

Chapter 7

Debtor(s).

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NOTICE OF MOTION TO VACATE AUTOMATIC STAY BY PRESENTMENT

PLEASE TAKE NOTICE, that upon the Affirmation of Kiyam J. Poulson, Esq., a member of the firm of DRUCKMAN LAW GROUP, PLLC, attorneys for Aurora Loan Services, LLC, a secured creditor herein, dated October 26, 2009, a motion will be made to this Court before the Honorable Arthur J. Gonzalez, Judge of the United States Bankruptcy Court, Courtroom 523, Alexander Hamilton Custom House, One Bowling Green, New York, NY 10004-1408, on **November 18, 2009 at 9:30 a.m.** of that day or as soon thereafter as counsel can be heard for entry of an Order;

1. Terminating and vacating the automatic stay of 362 of the Bankruptcy Code as to debtors to permit Aurora Loan Services, LLC to exercise its rights and remedies in its collateral for the indebtedness of Debtor to Aurora Loan Services, LLC due to there being no equity in the premises and it not being necessary to an effective reorganization and to keep creditor adequately protected, including the foreclosure of the premises 316-318 Devonwood Court, Taylors, South Carolina 29687, and to apply the proceeds therefrom to such indebtedness.

2. The termination of the automatic stay shall bind the debtor in any future conversion of the case; and

3. For any other and further relief as this Court may see just, proper and equitable.

Dated: Westbury, New York
October 26, 2009

DRUCKMAN LAW GROUP, PLLC

By: /s/ Kiyam J. Poulson, Esq.
Kiyam J. Poulson, Esq.
Attorneys for Aurora Loan Services, LLC
242 Drexel Avenue
Westbury, New York 11590
(516) 876-0800

To:

Onyekachi Anosike
Karen A. Robinson, Esq.
Alan Nisselson, Trustee
Carolyn S. Schwartz, US Trustee

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AFFIRMATION IN SUPPORT OF MOTION TO VACATE STAY

Kiyam J. Poulson, Esq., the undersigned, an attorney duly licensed to practice law in the State of New York and admitted to practice in the Southern District of New York, affirms the following under the penalty of perjury:

1. I am a member of the firm DRUCKMAN LAW GROUP, PLLC, attorneys for Aurora Loan Services, LLC, hereinafter referred to as Applicant, and as such am fully familiar with the facts and circumstances of this case.

2. I make this Affirmation in Support of Applicant's Motion for an Order vacating the automatic stay imposed by virtue of 11 U.S.C. §362 against debtor's premises known as 316-318 Devonwood Court, Taylors, South Carolina 29687.

3. That the jurisdiction of this Court is invoked pursuant to 28 U.S.C. §157; 11 U.S.C. §362; and the Bankruptcy Amendments and Federal Judgeships Act of 1984.

4. That Applicant is a foreign corporation, with an office for the transaction of business at 6666 75th Street, Indianapolis, IN 46250.

5. That at all times hereinafter mentioned, Applicant was the owner and mortgagee of a certain mortgage dated September 25, 2006, and recorded October 2, 2006 in the original amount of \$143,100.00 made by Onyekachi Anosike to Homecomings Financial Network, Inc. in Book MO 4651 at page 1248-1273.

6. Said Note and Mortgage were subsequently assigned to Aurora Loan Services, LLC (“Applicant”) for good and valuable consideration by an assignment of mortgage to be recorded.

7. That the said mortgage constitutes a lien upon the premises known as 316-318 Devonwood Court, Taylors, South Carolina 29687 which premises, upon information and belief, does not comprise a primary residence of the debtor.

8. That Applicant, as a secured creditor and as the holder of said mortgage, desires to foreclose said mortgage in the Supreme Court of the State of South Carolina according to the laws of the State of South Carolina and the terms and conditions of said mortgage.

9. That by reason of the debtor having filed a petition under Chapter 7 on July 9, 2009 Applicant is stayed from proceeding with the aforesaid foreclosure action.

10. That the said mortgage held by Applicant is now in default in that the debtor has failed to pay the monthly installments due thereon commencing in June 2009 and thereafter, and the grace period for such payments has expired.

11. Pursuant to 11 U.S.C. 362(d), on request of a party in interest, the court shall grant relief from the stay if the creditor is not adequately protected, or if the debtor has no equity in the property and such property is not necessary to an effective reorganization. Likewise, under 11 U.S.C. Section 554, "on request of a party in interest and after notice and a hearing, the court may order the trustee to abandon any property of the estate that is burdensome to the estate or that is of inconsequential value and benefit to the estate."

12. According to Schedule A. Real Property of debtor's petition, the fair market value of the property is at a maximum, \$144,762.00, while the amount debtor owes on this mortgage exceeds \$159,000.00, excluding some accrued interest, costs, disbursements and legal fees.

13. It is respectfully asserted that for the aforesaid reasons, applicant's interest in the property is not adequately protected. Furthermore, debtor has no equity in the property, and since this is a Chapter 7 filing, it is not necessary for an effective reorganization. Consequently, applicant is entitled to relief from the stay in order to pursue its foreclosure action. .

14. Due to the nature of this petition, applicant respectfully requests waiver of Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure which states that an order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of 10 days after the entry of the order, unless the court orders otherwise.

WHEREFORE, your affirmant, as the attorney for Applicant, respectfully requests an Order of this Court vacating the automatic stay by virtue of 11 U.S.C. §362 as to Applicant; granting Applicant leave to proceed with foreclosure proceedings in the Supreme Court of the State of New York; the termination of the stay shall bind the debtor in any future conversion of the case; and for such other, further and different relief as this Court may deem just, proper and equitable.

Dated: Westbury, New York
October 26, 2009

DRUCKMAN LAW GROUP, PLLC
Attorneys for Aurora Loan Services, LLC

By: /s/ Kiyam J. Poulson
Kiyam J. Poulson, Esq.
242 Drexel Avenue
Westbury, New York 11590
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AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF NASSAU)ss.:

Melissa Bernaudo, being duly sworn, says:

I am not a party to the action, am over the age of 18 years and I reside in Nassau County, NY.

On October 26, 2009, I served the within Notice of Motion to Vacate Stay, Proposed Order and all supporting documents by regular mail, by depositing a true copy thereof in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Onyekachi Anosike
2242 Powell Avenue
Bronx, NY 10462

Karen A. Robinson, Esq.
DC 37 Municipal Employees Legal Service
125 Barclay Street
New York, NY 10007

Alan Nisselson, Trustee
Windels Marx Lane & Mittendorf, LLP
156 West 56th Street
New York, NY 10019

United States Trustee
33 Whitehall Street
21st Floor
New York, NY 10004

Sworn to before me this
October 26, 2009
/s/ Kiyam J. Poulson
Kiyam J. Poulson
Notary Public, State of New York
No. 02PO6112656
Qualified in Nassau County
Commission Expires July 6, 2012

/s/ Melissa Bernaudo
Melissa Bernaudo